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09/982,457	10/17/2001	Johnson Jiahui Qin	2705-703	7400

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EXAMINER

STRANGE, AARON N

ART UNIT	PAPER NUMBER
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2153

MAIL DATE	DELIVERY MODE
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01/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/982,457

Applicant(s)

QIN, JOHNSON JIAHUI

Examiner

Aaron Strange

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-26,28-31,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 31 is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-13,20-26,28-30,33 and 34 is/are rejected.
- 7) ☒ Claim(s) 14-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's amendments rewriting claims 9, 27 and 32 into independent form are sufficient to overcome the previous objection to claims 9-13, 26, 28-30, 31, 33 and 34.
2. Applicant's arguments with respect to independent claims 1 and 20 have been considered but are moot in view of the new ground(s) of rejection. It is noted that the amendments to these claims do not incorporate all of the subject matter found allowable in claims 9, 27 and 32, and the subject matter that was incorporated is insufficient to place the claims in condition for allowance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification makes no reference to the term "computer usable medium", which appears in claim 31. Applicant must amend the specification to provide clear support or antecedent basis for the term, taking care to ensure that no new matter is introduced.

Claim Objections

4. Claim 25 objected to because of the following informalities: There appears to be a typographical error "a link database is table is" in line 2. Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 20-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

7. Claim 20 claims a system comprising a plurality of "means for" performing various functions. The specification of the present application discloses that the software distribution framework is a "middleware system" (Specification, 8-9), and claim 31 contains limitations directed to a computer usable medium containing program code for performing the same functions. The language of the claims, when considered in combination with the language of the specification, would have suggested to one of ordinary skill in the art that the claimed "means" are intended to include software-only embodiments. Therefore, since the claim is not limited to statutory subject matter, it is non-statutory.

8. All claims not individually rejected are rejected by virtue of their dependency from the above claims and their failure to correct the above noted deficiencies.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 4, 5, 10-13, 15-25, 33 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claims 4 and 5 recite the limitation "said access to one or more software products". There is insufficient antecedent basis for this limitation in these claims.

12. With regard to claims 10-13, the preamble of each claim refers to the "internal software publishing process of Claim 9", which claims an automated software distribution method. The Examiner recommends amending the claim to maintain a consistent preamble with the independent claim.

13. With regard to claim 15, the limitation "wherein software distribution framework (SWDF) Entitlement Information includes" is unclear. There is no prior reference to

SDWF Entitlement Information and the claimed method includes no steps interacting with or utilizing this information, so it is unclear what applicant intends to incorporate with this limitation.

14. With regard to claims 15-19, the preamble of each claim refers to a "commercial transaction process of claim [14/15]", which claims an automated software distribution method. The Examiner recommends amending the claim to maintain a consistent preamble with the independent claim.

15. With regard to claim 20, the limitation "means for determining ... according to instructions stored on a computer-readable medium" is unclear. It is unclear if the instructions and/or the computer-readable medium are intended to be the part of the "means for determining" or a separate element of the claimed system.

16. Claims 21-23 recite the limitation "said information associated with an automated software distribution method". There is insufficient antecedent basis for this limitation in these claims.

17. With regard to claims 33 and 34, the preamble of each claim refers to the "automated software distribution method of Claim [31/33]", which claims a computer usable medium.

18. All claims not individually rejected are rejected by virtue of their dependency from the above claims. The Examiner recommends amending the claim to maintain a consistent preamble with the independent claim.

Claim Rejections - 35 USC § 102

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

20. Claims 1, 3-6, 8, 20, 21, 23-26 and 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Edd et al. (US 7,325,193).

21. With regard to claim 1, Edd discloses an automated software distribution method comprising:

receiving a request to access a software distribution system (users access the content management system to update/create software for distribution)(col. 7, ll. 15-20);

determining the request is from a registered user (users must be authorized to create content and identifiable with a userid, which require registration with the system)(col. 7, ll. 46-48; col. 10, ll. 35-36);

determining whether the registered user is authorized to perform an internal software development activity corresponding to one or more software projects in the software distribution system (users must be authorized to create content)(col. 7, ll. 46-48), where the internal software development activity includes publishing downloadable software to the software distribution system (content management system is used to create content for publication)(col. 7, ll. 46-64);

providing the registered user access to tools that facilitate the development of the software projects when the registered user is authorized to perform internal software development activity, where the tools create or modify downloadable software associated with the software projects (author is presented with controls for creating content)(col. 9, l. 64 to col. 10, l. 51);

populating the software distribution system with data associated with the downloadable software including at least product release information corresponding to the downloadable software (documents have associated publication dates)(col. 10, l. 29; col. 12, ll. 12-16) or packaging information that maps the downloadable software to a displayable image corresponding to the downloadable software;

receiving requisite supervisory authorization to proceed with a publication of the downloadable software, where the requisite supervisory authorization indicates a manager of the software distribution system, other than the registered user, approved the publication of the downloadable software (content is reviewed by one or more supervisory parties prior to approval for publication)(col. 8, ll. 40-48; col. 10, l. 53 to col. 11, ll. 30); and

publishing the downloadable software to the software distribution system according to the data populated in the software distribution system, the publishing performed responsive to receiving the requisite supervisory authorization to proceed with the publication (content is promoted after approval is complete)(col. 7, ll. 48-53; col. 12, ll. 34-58).

22. With regard to claims 3 and 4, Edd further discloses that users may communicate with the software distribution system via an internal LAN and/or the Internet (col. 6, ll. 1-25).

23. With regard to claim 5, Edd further discloses that said access to one or more software projects allows the registered user to access an internal storage of software products (files are stored on mass storage component of the content management system)(fig. 2, 35; col. 6, ll. 29-36).

24. With regard to claim 6, Edd further discloses that said access to one or more software projects allows the registers user to download software code, make changes, and upload the modified code (pre-existing documents may be modified and uploaded again)(col. 17, ll. 16-21);

25. With regard to claim 7, Edd further discloses that the system is engaged in an electronic commerce environment (content may be directed to advertising, pricing, etc).

26. With regard to claim 8, Edd further discloses that a software transaction process is utilized (author and content management system interact with each other to create content)(col. 9, l. 64 to col. 10, l. 51).

27. Claim 20 is rejected under the same rationale as claim 1, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

28. Regarding claim 21, Edd further discloses that information associated with an automated software distribution method is organized in accordance with software distribution framework (SWDF) modules that manage the software distribution information and activities in accordance with SWDF models (information about content is organized into records)(col. 9, ll. 27-29).

29. Regarding claim 23, Edd further discloses that the information associated with an automated software distribution method is tracked and manipulated by means for indicating classes, attributes and operations (information such as status is updated throughout each stage)(col. 8, l. 64 to col. 9, l. 18).

30. Regarding claim 24, Edd further discloses means for managing different areas of framework information including user information, authorization information, software

information, configuration information, commerce information, publication information, and distribution information (control management document contains numerous fields for managing the above information)(col. 10, ll. 20-51; fig. 4A-4C).

31. Regarding claim 25, Edd further discloses a link database table is a persistent storage for the relationship of two objects (links between objects are stored in databases)(col. 9, ll. 30-37).

32. Regarding claim 26 and 28-30, Edd discloses an automated software distribution apparatus comprising:

a bus for communicating information associated with an automated software distribution method (connection between processor 31 and memory 32)(fig. 2; col. 5, ll. 60-61);

an input mechanism for receiving requests from a user for access to said information, said user having associated transaction rights (user input mechanism)(fig. 2, 33; col. 6, ll. 7-15);

a processor (fig. 2, 31; col. 5, ll. 60-67).

The remaining limitations in claims 26 and 28-30 are directed to future acts that the processor is "to" perform or descriptions of the environment in which the apparatus is to be used. These limitations amount to mere recitations of intended use, and are not given patentable weight, since they have no effect on the structure of the claimed apparatus.

Allowable Subject Matter

33. Claims 14-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

34. Claims 10-13, 15-19, 33 and 34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

35. Claims 9 and 31 are allowed.

Conclusion

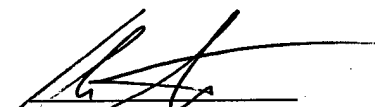
36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Aaron Strange
GAU 2153
1/30/08